

§ 125.120

and feasibility of the technology proposed to minimize impingement mortality and entrainment of all life stages of fish and shellfish. In the first permit issued, you must put a condition requiring the facility to reduce impingement mortality and entrainment commensurate with the implementation of the technologies in the permit. Under subsequent permits, the Director must review the performance of the technologies implemented and require additional or different design and construction technologies, if needed to minimize impingement mortality and entrainment of all life stages of fish and shellfish. In addition, you must consider whether more stringent conditions are reasonably necessary in accordance with § 125.84(e).

(ii) For a facility that chooses Track II, you must review the information submitted with the Comprehensive Demonstration Study information required in § 125.86(c)(2), evaluate the suitability of the proposed design and construction technologies and operational measures to determine whether they will reduce both impingement mortality and entrainment of all life stages of fish and shellfish to 90 percent or greater of the reduction that could be achieved through Track I. If you determine that restoration measures are appropriate at the new facility for consideration of impacts other than impingement mortality and entrainment, you must review the Evaluation of Proposed Restoration Measures and evaluate whether the proposed measures will maintain the fish and shellfish in the waterbody at a substantially similar level to that which would be achieved through § 125.84(b)(1) and (2). In addition, you must review the Verification Monitoring Plan in § 125.86(c)(2)(iv)(D) and require that the proposed monitoring begin at the start of operations of the cooling water intake structure and continue for a sufficient period of time to demonstrate that the technologies, operational measures and restoration measures meet the requirements in § 125.84(d)(1). Under subsequent permits, the Director must review the performance of the additional and /or different technologies or measures used and determine that they reduce the level of adverse envi-

40 CFR Ch. I (7–1–04 Edition)

ronmental impact from the cooling water intake structures to a comparable level that the facility would achieve were it to implement the requirements of § 125.84(b)(1) and (2).

(2) *Monitoring conditions.* At a minimum, the permit must require the permittee to perform the monitoring required in § 125.87. You may modify the monitoring program when the permit is reissued and during the term of the permit based on changes in physical or biological conditions in the vicinity of the cooling water intake structure. The Director may require continued monitoring based on the results of the Verification Monitoring Plan in § 125.86(c)(2)(iv)(D).

(3) *Record keeping and reporting.* At a minimum, the permit must require the permittee to report and keep records as required by § 125.88.

[66 FR 65338, Dec. 18, 2001]

Subparts J–K [Reserved]

Subpart L—Criteria and Standards for Imposing Conditions for the Disposal of Sewage Sludge Under Section 405 of the Act [Reserved]

Subpart M—Ocean Discharge Criteria

SOURCE: 45 FR 65953, Oct. 3, 1980, unless otherwise noted.

§ 125.120 Scope and purpose.

This subpart establishes guidelines for issuance of National Pollutant Discharge Elimination System (NPDES) permits for the discharge of pollutants from a point source into the territorial seas, the contiguous zone, and the oceans.

§ 125.121 Definitions.

(a) *Irreparable harm* means significant undesirable effects occurring after the date of permit issuance which will not be reversed after cessation or modification of the discharge.

(b) *Marine environment* means that territorial seas, the contiguous zone and the oceans.